

Message Text

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ACTION ARA-10

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TO SECSTATE WASHDC 4024

INFO DEA WASHDC

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SUBJ: NARCOTICS: GOC PLANS TO DOUBLE PENALTIES FOR DRUG TRAF-
FICKING, RELAX PENALTIES FOR SIMPLE MARIJUANA POSSESSION

REF: BOGOTA'S 2894

SUMMARY: DRAFT GOC DECREE WOULD DOUBLE PRISON TERMS FOR TRAFFICK-
ING (INCLUDING MARIJUANA) FROM THE PRESENT THREE TO 12 YEARS TO
SIX TO 24 YEARS, THE MAXIMUM ALLOWABLE PUNISHMENT UNDER THE CO-
LOMBIAN CONSTITUTION. THE MINIMUM PENALTY FOR SIMPLE POSSESSION
OF 28 GRAMS (ONE OUNCE) OR LESS OF MARIJUANA WOULD BE REDUCED
TO A FINE.

1. ACCORDING TO THE EXECUTIVE SECRETARY OF THE GOC NATIONAL
COUNCIL ON DANGEROUS DRUGS, COLOMBIA WILL SHORTLY PROMULGATE A
DECREE SIGNIFICANTLY STIFFENING PENALTIES FOR DRUG TRAFFICKING,
WHILE AT THE SAME TIME REDUCING THOSE FOR SIMPLE MARIJUANA POSES-
SION. PRESENT LEGISLATION CALLS FOR SENTENCES OF FROM THREE TO
12 YEARS, AND FINE, FOR TRAFFICKING. NEW LEGISLATION WILL PRO-
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VIDE A MINIMUM SENTENCE OF SIX YEARS AND A MAXIMUM OF 24--THE

MOST THE COLOMBIAN CONSTITUTION ALLOWS. FINES LEVIED AGAINST CONVICTED TRAFFICKERS ARE ALSO LIKELY TO BE DOUBLED.

2. WHILE EXISTING LEGISLATION BLURS THE DIFFERENCE BETWEEN TRAFFICKING IN MARIJUANA AND SIMPLE POSSESSION, AND LEAVES THIS DISTINCTION UP TO COLOMBIAN JUDGES, THE NEW LEGISLATION DEFINES SIMPLE POSSESSION OF MARIJUANA AS ANY AMOUNT NOT EXCEEDING 28 GRAMS. THE MINIMUM PENALTY FOR SIMPLE POSSESSION WOULD BE A FINE, NOT A JAIL TERM AS UNDER CURRENT (1973) LAWS. THE COURT COULD, HOWEVER, ORDER DEFENDANTS CONVICTED OF SIMPLE POSSESSION TO UNDERGO CLINICAL EXAMINATION. IF THE DEFENDANT REFUSED TO ABIDE BY SUCH ORDER OR REFUSED TO PAY A FINE, HE COULD GO TO JAIL. TRAFFICKING IN MARIJUANA WOULD STILL BE SUBJECT TO THE HEAVIER PENALTIES.

3. DRUGS OTHER THAN MARIJUANA ARE NOT RPT NOT COVERED UNDER SIMPLE POSSESSION PROVISIONS OF THE DRAFT DECREE. THEREFORE, COURTS WOULD BE LIKELY TO CONTINUE TO IMPOSE SENTENCES FOR TRAFFICKING ON PERSONS CONVICTED OF POSSESSION OF SMALL AMOUNTS OF COCAINE OR OTHER HARD DRUGS.

4. THOUGH WE HAVE NOT YET SEEN THE TEXT OF THE NEW DECREE, WHICH IS STILL BEING REVISED, IT IS APPARENTLY BASED UPON A STUDY OF US FEDERAL AND STATE NARCOTICS LAWS. MINISTER OF JUSTICE HOYOS ARANGO BEGAN PAVING THE WAY FOR ISSUANCE OF THE NEW LEGISLATION AT LAST WEEKEND'S NATIONAL MEDIA SEMINAR ON DRUGS, SPONSORED BY THE NATIONAL COUNCIL ON DANGEROUS DRUGS (WHICH HE CHAIRS) AND THE EMBASSY. IN HIS SPEECH PREPARED FOR THE SEMINAR AND IN A FOLLOW-UP TV INTERVIEW THE MINISTER STRESSED THE NEED TO RE-EXAMINE COLOMBIA'S TREATMENT OF NON-TRAFFICKER DRUG OFFENDERS IN LIGHT OF EXPERIENCE IN EUROPE AND THE US.

5. THE MISSION WILL PROVIDE WASHINGTON WITH A SUMMARY AND ENGLISH TRANSLATION OF THE NEW DRUG LAW AS SOON AS IT IS ISSUED. WE WILL ALSO REVISE OUR DRUG INFORMATION PAMPHLET FOR AMCITS (WHICH IS DISTRIBUTED BY GOC IMMIGRATION OFFICIALS AND AIRLINES) TO REFLECT NEW, HARSHER COLOMBIAN PENALTIES FOR TRAFFICKING IN DRUGS.
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